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Attorney for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

Northern Division

VERA GADMAN,

Plaintiff,

v.

JOSEPH MARTIN, MARSHALL
DITTRICH, PENELOPE JAMES AND
PHOENIX MOUNTAIN
COLLABORATIVE, LLC.

Defendants.

Case No.

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

Plaintiff complains and alleges as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff Vera Gadman is a single woman who is and was at all times material herein a resident of Bonner County, State of Idaho.

2. On information and belief, Defendant Joseph Martin is and was at all times material herein a resident and citizen of the State of Colorado.

3. On information and belief, Defendant Penelope James is and was at all times material herein a resident and citizen of the State of Montana.

4. On information and belief, Defendant Phoenix Mountain Collaborative, LLC is and was at all times material hereto a Montana Limited Liability Corporation.

5. On information and belief, Defendant Marshall Dittrich is and was at all times material herein a resident and citizen of the State of California.

6. Jurisdiction is proper pursuant to 28 U.S.C. §§ 1332(a)(1) and 1332(b) as the parties are residents of different states and the amount in controversy exceeds \$75,000.

7. Venue is proper with this Court because the actions complained of herein took place in Bonner County, Idaho and Venue is conferred by 29 U.S.C. § 1391.

8. Venue is proper in the Northern Division of the United States District Court for the District of Idaho pursuant to D.Id.L.Civ.R. 3.1 and 1391(a)(2).

FACTUAL ALLEGATIONS AND CLAIMS

9. On or about July 31, 2011, Plaintiff was driving her motor vehicle in the town of Clark Fork, Bonner County, Idaho.

10. Plaintiff observed Defendants Martin and Dittrich hitchhiking along Highway 200, and stopped her car to offer them a ride.

11. Defendants Martin and Dittrich then entered into the Plaintiff's motor vehicle.

12. Defendants stated that they wished to find a place to camp, and Plaintiff proceeded to assist them by driving to Sam Owen campground, which was full. Plaintiff then drove them to two other RV campgrounds on the Hope Peninsula, but they did not have funds to

pay for the campsite. Finally, Plaintiff drove them to the east end of David Thompson Road, where she showed them a map with alternative locations for them to stay.

13. Without cause or provocation, Defendants Martin and Dittrich assaulted and battered Plaintiff, committing the following acts against her:

- A. Choking Plaintiff, causing her to lose consciousness and then strangling her with a rope.
- B. Striking her about the head with a glass bottle and other objects, and with fists.
- C. Throwing rocks and striking her with rocks.
- D. Otherwise threatening, menacing, and committing other acts of violence and terror against Plaintiff.

14. The above acts occurred both inside and outside of the Plaintiff's motor vehicle.

15. At one point during the attack Defendant Dittrich exercised dominion and control over the motor vehicle by turning off the engine.

16. Prior to their attack upon Plaintiff, Defendants Martin and Dittrich were housed at the Explorations wilderness facility for troubled youth, located in Trout Creek, Montana.

17. Explorations is a facility and business conducted by Defendant Phoenix Mountain Collaborative, LLC.

18. The co-founder and director of Explorations is Defendant Penelope James.

19. Explorations holds itself out as a wilderness camp for troubled youth, including youth involved in criminal behavior and drug abuse.

20. On or about July 19 or 20, Defendants Martin and Dittrich informed Explorations

personnel that they planned to escape.

21. Defendant Penelope Jones was informed of the escape plan.

22. Despite having been informed of the escape plan, Defendants Penelope Jones and Phoenix Mountain Collaborative failed to supervise or prevent the escape of Defendants Martin and Dittrich. Said acts of negligence commenced in the State of Montana and continued in the State of Idaho.

23. Due to the carelessness and negligence of Defendants Penelope Jones and Phoenix Mountain Collaborative, LLC, Defendants Martin and Dittrich escaped and traveled to Sandpoint, Idaho, where they assaulted and battered the Plaintiff.

24. As a result of the negligent and/or intentional acts committed by Defendants, Plaintiff sustained injuries about her head, neck, wrist, face and back.

25. As a result of the negligent and/or intentional acts committed by Defendants, Plaintiff sustained other serious physical and emotional injuries.

26. As a result of the negligent and/or intentional acts committed by Defendants, Plaintiff has incurred medical and psychological expenses and will incur these expenses in the future.

27. As a result of the negligent and/or intentional acts committed by Defendants, Plaintiff has sustained a loss of earnings and will incur lost earnings in the future.

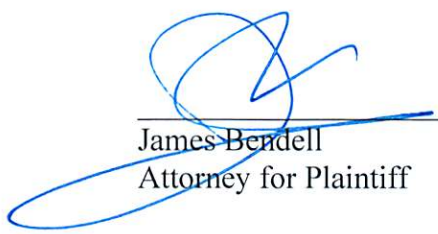
28. As a result of the negligent and/or intentional acts committed by Defendants, Plaintiff has suffered pain and suffering and loss of enjoyment of life, and will suffer such pain and suffering in the future.

29. Plaintiff has sustained damages of \$1,000,000.

WHEREFORE, Plaintiff prays for the following relief:

- A. Judgment against Defendants for past and future medical and psychological injuries.
- B. Judgment against Defendants for past and future loss of earnings.
- C. Judgment against Defendants for past and future pain and suffering.
- D. For judgment against Defendants Dittrich and Marshall for punitive damages due to the willful, wanton and deliberate acts referenced above.
- E. For general, special and compensatory damages in the amount of \$1,000,000.
- E. For such other relief as the court may deem equitable.

Dated this 25 day of July, 2013.

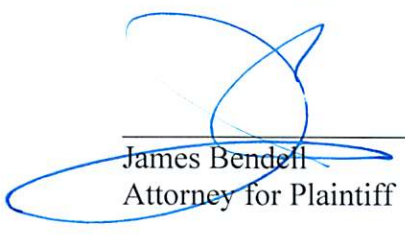


James Bendell
Attorney for Plaintiff

DEMAND FOR JURY

Vera Gadman demands a trial by jury on all issues and claims asserted herein.

DATED this 25 day of July, 2013.



James Bendell
Attorney for Plaintiff

CIVIL COVER SHEET

The JS 44 civil coversheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Vera Gadman

(b) County of Residence of First Listed Plaintiff Bonner
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

James Bendell, The Grupp Law Firm, PLLC, 842 W. Kathleen Ave.,
Coeur d'Alene, ID 83815

DEFENDANTS

Joseph Martin, Marshall Dittrich, Penelope James, Phoenix Mountain
Collaborative, LLC

County of Residence of First Listed Defendant Colorado
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC Sec. 1332(a)(1) and 1332(b)

Brief description of cause:

Plaintiff assaulted and beaten by two escapees from Wilderness therapeutic facility.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$
1,000,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

07/25/2013

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE